

Senate Study Bill 3174 - Introduced

SENATE FILE _____

BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON DANIELSON)

A BILL FOR

1 An Act concerning government accountability and concerning
2 service contract requirements.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 8.47, subsection 1, unnumbered paragraph
2 1, Code 2014, is amended to read as follows:

3 The department of administrative services, in cooperation
4 with the office of attorney general and the department of
5 management, shall adopt uniform terms and conditions for
6 service contracts executed by a department or establishment
7 benefiting from service contracts which terms and conditions
8 shall be consistent with the contractual requirements of
9 chapter 8F. The terms and conditions shall include but are not
10 limited to all of the following:

11 Sec. 2. Section 8F.3, subsection 3, Code 2014, is amended
12 to read as follows:

13 3. Prior to entering into a service contract with a
14 recipient entity, the oversight agency shall ~~determine~~ do all
15 of the following:

16 a. Determine whether the recipient entity can reasonably
17 be expected to comply with the requirements of the service
18 contract. If the oversight entity is unable to determine
19 whether the recipient entity can reasonably be expected
20 to comply with the requirements of the service contract,
21 the oversight entity shall request such information from
22 the recipient entity as described in subsection 1 to make
23 a determination. If the oversight agency determines from
24 the information provided that the recipient entity cannot
25 reasonably be expected to comply with the requirements of the
26 service contract, the oversight agency shall not enter into the
27 service contract.

28 b. Perform a cost comparison establishing whether the
29 contract costs from the proposed service contract are less
30 than the costs of having the services provided by an agency.
31 Contract costs shall include direct costs, including salaries
32 and fringe benefits, indirect overhead costs, including the
33 contractor's proportional share of existing administrative
34 salaries and benefits, rent and equipment costs, utilities,
35 and materials. Additionally, transition costs, including

1 unemployment compensation, shall be included in the analysis of
2 contract costs. If the oversight agency determines from the
3 information provided that the contract costs of the recipient
4 entity are not less than the costs of having the services
5 provided by an agency, the oversight agency shall not enter
6 into the service contract.

7 c. If the proposed service contract may result in reduced
8 public employment by an agency in an area, perform an
9 economic impact analysis to consider the impact of the service
10 contract on the possible loss of employment or income in the
11 affected area, impact on social services to include public
12 assistance programs, economic impact on local businesses, any
13 possible changes in tax revenue for the affected area, and
14 any environmental impacts that may result from the service
15 contract.

16 Sec. 3. Section 8F.3, Code 2014, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 4. A service contract with a recipient
19 entity shall include the following terms and conditions:

20 a. Specific performance criteria and cost parameters with
21 termination provisions for failure to meet the performance
22 criteria and cost parameters.

23 b. A requirement that the compensation paid to employees
24 of a recipient entity pursuant to the service contract shall
25 be comparable to the compensation paid to public employees
26 performing similar work or the average private sector wage for
27 similar work, whichever is less.

28 c. A provision prohibiting the automatic renewal of
29 the terms of a service contract without complying with the
30 requirements of this section prior to renewing the service
31 contract.

32 d. A provision prohibiting the payment for services under
33 the service contract regardless of whether the services are
34 actually provided.

35 Sec. 4. Section 8F.4, Code 2014, is amended by adding the

1 following new subsection:

2 NEW SUBSECTION. 4. An oversight agency shall make
3 information described in section 8F.3, subsection 3, paragraphs
4 `b` and `c`, and information required to be reported by a
5 recipient agency pursuant to this section available to the
6 public.

7 Sec. 5. Section 8G.3, subsection 3, paragraph a, Code 2014,
8 is amended by adding the following new subparagraph:

9 NEW SUBPARAGRAPH. (10) A recipient entity as defined in
10 section 8F.2.

11 Sec. 6. Section 8G.4, subsection 2, Code 2014, is amended by
12 adding the following new paragraph:

13 NEW PARAGRAPH. *Oj.* Information required to be provided
14 pursuant to chapter 8F.

| 15 | EXPLANATION |
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16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill concerns service contracts entered into by a
19 government entity.

20 Code section 8.47, concerning service contracts entered into
21 by a state executive branch department, is amended to provide
22 that the standard terms and conditions of a service contract
23 shall be consistent with the contractual requirements of Code
24 chapter 8F.

25 Code chapter 8F, establishing accountability requirements
26 for certain service contracts, is amended. "Service contract"
27 is defined by the Code chapter as a contract between a
28 government entity, called an oversight agency, and a private
29 or other intergovernmental entity, called a recipient entity,
30 where federal or state moneys are involved for a service or
31 services when the predominant factor, thrust, and purpose of
32 the contract as reasonably stated is for the provision of
33 services.

34 Code section 8F.3, subsection 3, concerning contractual
35 requirements for service contracts, is amended to require an

1 oversight agency to perform a cost comparison and an economic
2 impact analysis prior to entering into a service contract.
3 The cost comparison requires a determination that a service
4 contract will result in lower contract costs than having the
5 services provided by state government. The economic impact
6 analysis concerns a determination of the impact on employment,
7 economic activity, and public assistance if public employment
8 in a particular area are reduced pursuant to a service
9 contract.

10 Code section 8F.3 is further amended to require a service
11 contract to include performance criteria, provisions governing
12 compensation paid to employees of a recipient entity,
13 provisions prohibiting automatic renewal of a service contract,
14 and provisions prohibiting payment regardless of whether the
15 services are actually provided.

16 Code section 8F.4, concerning reporting requirements,
17 is amended to require an oversight agency to make certain
18 information described in Code section 8F.3, subsection 3, and
19 information required to be reported by a recipient agency
20 pursuant to this Code section available to the public.

21 Code chapter 8G, establishing the taxpayer transparency
22 Act, is amended to specifically include recipient entities,
23 as defined in Code chapter 8F, within the definition of
24 "entity" for purposes of the Code chapter. Code section
25 8G.4, concerning the creation of a searchable budget database
26 internet site, is amended to require that information required
27 to be provided pursuant to Code chapter 8F be included on the
28 site.